

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

SUSAN E. NEWGENT,
Plaintiff
vs.
WELLS FARGO BANK, N.A., et al.
Defendants

CASE NO. 09cv1525 WQH (WMC)
ORDER

HAYES, Judge:

The matter before the Court is Defendant Wells Fargo Bank, N.A.’s (“Wells Fargo”) Motion to Dismiss, filed July 20, 2009 (Doc. # 4).

On September 4, 2009, Plaintiff Susan E. Newgent filed a First Amended Complaint pursuant to the Federal Rules of Civil Procedure. *See Fed. R. Civ. P. 15(a)* (“A party may amend the party’s pleading once as a matter of course at any time before a responsive pleading is served”). Wells Fargo argues Plaintiff was not permitted to file a First Amended Complaint as of right because the pending Motion to Dismiss (Doc. # 4) is a responsive pleading (Doc. # 9 at 6). However, “a motion to dismiss is not a responsive pleading within the meaning of Rule 15(a).” *Rick-Mik Enters. v. Equilon Enters., LLC*, 532 F.3d 963, 977 (9th Cir. 2008). Plaintiff therefore had “an absolute right to amend.” *See id.* Once filed, an amended complaint supersedes the original complaint in its entirety. *See London v. Coopers & Lybrand*, 644 F.2d 811, 814 (9th Cir. 1981). Defendant’s Motion to Dismiss, addressing the original Complaint, became moot once the First Amended Complaint was filed.

IT IS HEREBY ORDERED that the Motion to Dismiss (Doc. # 4) is **DENIED AS MOOT.**

DATED: October 13, 2009

William Q. Hayes
WILLIAM Q. HAYES
United States District Judge